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Docket No.: 5000-0198PUS1
(PATENT)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of:
Jordi TORMO I BLASCO et al.

Application No.: 10/594,268

Confirmation No.: N/A

Filed: September 26, 2006

Art Unit: N/A

For: FUNGICIDAL MIXTURES

Examiner: Not Yet Assigned

LETTER

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

Subsequent to the filing of the above-identified application on September 26, 2006, attached hereto is an English translation of the International Preliminary Report on Patentability (Form PCT/JB/373) and written opinion (Form PCT/ISA/237) that should be made of record in the present application.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or to credit any overpayment to Deposit Account No. 02-2448 for any

Application No.: 10/594,268

Docket No.: 5000-0198PUS1

additional fees required under 37 C.F.R. § 1.16 or under 37 C.F.R. § 1.17; particularly, extension of time fees.

Dated: February 9, 2007

Respectfully submitted,

By 

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Attachment(s)

PATENT COOPERATION TREATY

PCT

INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY

(Chapter I of the Patent Cooperation Treaty)

(PCT Rule 44bis)

| | | |
|--|---|---|
| Applicant's or agent's file reference 0000055475 | FOR FURTHER ACTION | See item 4 below |
| International application No. PCT/EP2005/003007 | International filing date (<i>day/month/year</i>) 22 March 2005 (22.03.2005) | Priority date (<i>day/month/year</i>) 26 March 2004 (26.03.2004) |
| International Patent Classification (8th edition unless older edition indicated) See relevant information in Form PCT/ISA/237 | | |
| Applicant BASF AKTIENGESELLSCHAFT | | |

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|-------------------------------------|--|---|-----------|---------------------|--------------------------|------------|----------|--------------------------|-------------|--|--------------------------|------------|----------------------------|-------------------------------------|-----------|---|--------------------------|------------|-------------------------|--------------------------|-------------|--|--------------------------|--------------|---|
| 1. | This international preliminary report on patentability (Chapter I) is issued by the International Bureau on behalf of the International Searching Authority under Rule 44 bis.1(a). | | | | | | | | | | | | | | | | | | | | | | | | |
| 2. | This REPORT consists of a total of 5 sheets, including this cover sheet. In the attached sheets, any reference to the written opinion of the International Searching Authority should be read as a reference to the international preliminary report on patentability (Chapter I) instead. | | | | | | | | | | | | | | | | | | | | | | | | |
| 3. | <p>This report contains indications relating to the following items:</p> <table style="width: 100%;"> <tr> <td style="width: 10%; text-align: center;"><input checked="" type="checkbox"/></td> <td style="width: 30%;">Box No. I</td> <td style="width: 60%;">Basis of the report</td> </tr> <tr> <td style="text-align: center;"><input type="checkbox"/></td> <td>Box No. II</td> <td>Priority</td> </tr> <tr> <td style="text-align: center;"><input type="checkbox"/></td> <td>Box No. III</td> <td>Non-establishment of opinion with regard to novelty, inventive step and industrial applicability</td> </tr> <tr> <td style="text-align: center;"><input type="checkbox"/></td> <td>Box No. IV</td> <td>Lack of unity of invention</td> </tr> <tr> <td style="text-align: center;"><input checked="" type="checkbox"/></td> <td>Box No. V</td> <td>Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement</td> </tr> <tr> <td style="text-align: center;"><input type="checkbox"/></td> <td>Box No. VI</td> <td>Certain documents cited</td> </tr> <tr> <td style="text-align: center;"><input type="checkbox"/></td> <td>Box No. VII</td> <td>Certain defects in the international application</td> </tr> <tr> <td style="text-align: center;"><input type="checkbox"/></td> <td>Box No. VIII</td> <td>Certain observations on the international application</td> </tr> </table> | <input checked="" type="checkbox"/> | Box No. I | Basis of the report | <input type="checkbox"/> | Box No. II | Priority | <input type="checkbox"/> | Box No. III | Non-establishment of opinion with regard to novelty, inventive step and industrial applicability | <input type="checkbox"/> | Box No. IV | Lack of unity of invention | <input checked="" type="checkbox"/> | Box No. V | Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement | <input type="checkbox"/> | Box No. VI | Certain documents cited | <input type="checkbox"/> | Box No. VII | Certain defects in the international application | <input type="checkbox"/> | Box No. VIII | Certain observations on the international application |
| <input checked="" type="checkbox"/> | Box No. I | Basis of the report | | | | | | | | | | | | | | | | | | | | | | | |
| <input type="checkbox"/> | Box No. II | Priority | | | | | | | | | | | | | | | | | | | | | | | |
| <input type="checkbox"/> | Box No. III | Non-establishment of opinion with regard to novelty, inventive step and industrial applicability | | | | | | | | | | | | | | | | | | | | | | | |
| <input type="checkbox"/> | Box No. IV | Lack of unity of invention | | | | | | | | | | | | | | | | | | | | | | | |
| <input checked="" type="checkbox"/> | Box No. V | Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement | | | | | | | | | | | | | | | | | | | | | | | |
| <input type="checkbox"/> | Box No. VI | Certain documents cited | | | | | | | | | | | | | | | | | | | | | | | |
| <input type="checkbox"/> | Box No. VII | Certain defects in the international application | | | | | | | | | | | | | | | | | | | | | | | |
| <input type="checkbox"/> | Box No. VIII | Certain observations on the international application | | | | | | | | | | | | | | | | | | | | | | | |
| 4. | The International Bureau will communicate this report to designated Offices in accordance with Rules 44bis.3(c) and 93bis.1 but not, except where the applicant makes an express request under Article 23(2), before the expiration of 30 months from the priority date (Rule 44bis .2). | | | | | | | | | | | | | | | | | | | | | | | | |

| | |
|--|---|
| <p style="text-align: center;">The International Bureau of WIPO 34, chemin des Colombettes 1211 Geneva 20, Switzerland</p> <p>Facsimile No. +41 22 338 82 70</p> | <p>Date of issuance of this report 01 November 2006 (01.11.2006)</p> <p>Authorized officer <div style="text-align: center;">Ellen Moyse</div></p> <p>e-mail: pt05@wipo.int</p> |
|--|---|

PATENT COOPERATION TREATY

TRANSLATION

PCT

WRITTEN OPINION OF THE
INTERNATIONAL SEARCHING AUTHORITY

(PCT Rule 43bis.1)

From the
INTERNATIONAL SEARCHING AUTHORITY

To:

Date of mailing
(day/month/year)

See form PCT/ISA/210

Applicant's or agent's file reference

0000055475

FOR FURTHER ACTION

See paragraph 2 below

International application No.

PCT/EP2005/003007

International filing date (day/month/year)

22.03.2005

Priority date (day/month/year)

26.03.2004

International Patent Classification (IPC) or both national classification and IPC

A01N43/90

Applicant

BASF AKTIENGESELLSCHAFT

1. This opinion contains indications relating to the following items:

- ☒ Box No. I Basis of the opinion
- ☐ Box No. II Priority
- ☐ Box No. III Non-establishment of opinion with regard to novelty, inventive step and industrial applicability
- ☐ Box No. IV Lack of unity of invention
- ☒ Box No. V Reasoned statement under Rule 43bis.1(a)(i) with regard to novelty, inventive step or industrial applicability: citations and explanations supporting such statement
- ☐ Box No. VI Certain documents cited
- ☐ Box No. VII Certain defects in the international application
- ☐ Box No. VIII Certain observations on the international application

2. **FURTHER ACTION**

If a demand for international preliminary examination is made, this opinion will be considered to be a written opinion of the International Preliminary Examining Authority ("IPEA") except that this does not apply where the applicant chooses an Authority other than this one to be the IPEA and the chosen IPEA has notified the International Bureau under Rule 66.1bis(b) that written opinions of this International Searching Authority will not be so considered.

If this opinion is, as provided above, considered to be a written opinion of the IPEA, the applicant is invited to submit to the IPEA a written reply together, where appropriate, with amendments, before the expiration of 3 months from the date of mailing of Form PCT/ISA/220 or before the expiration of 22 months from the priority date, whichever expires later.

For further options, see Form PCT/ISA/220.

3. For further details, see notes to Form PCT/ISA/220.

Name and mailing address of the ISA/EP

Authorized officer

Facsimile No.

Telephone No.

WRITTEN OPINION OF THE
INTERNATIONAL SEARCHING AUTHORITY

International application No.

PCT/EP2005/003007

Box No. I

Basis of this opinion

1. With regard to the language, this opinion has been established on the basis of the international application in the language in which it was filed, unless otherwise indicated under this item.

☐

This opinion has been established on the basis of a translation from the original language into the following language

_____, which is the language of a translation furnished for the purposes of international search (under Rule 12.3 and 23.1(b)).

2. With regard to any nucleotide and/or amino acid sequence disclosed in the international application and necessary to the claimed invention, this opinion has been established on the basis of:

a. type of material

☐

a sequence listing

☐

table(s) related to the sequence listing

b. format of material

☐

in written format

☐

in computer readable form

c. time of filing/furnishing

☐

contained in the international application as filed.

☐

filed together with the international application in computer readable form.

☐

furnished subsequently to this Authority for the purposes of search.

3. ☐ In addition, in the case that more than one version or copy of a sequence listing and/or table(s) relating thereto has been filed or furnished, the required statements that the information in the subsequent or additional copies is identical to that in the application as filed or does not go beyond the application as filed, as appropriate, were furnished.

4. Additional comments:

The documents cited in this opinion are numbered in the same order as they appear in the international search report.

WRITTEN OPINION OF THE
INTERNATIONAL SEARCHING AUTHORITY

International application No.

PCT/EP2005/003007

Box No. V Reasoned statement under Rule 43bis.1(a)(i) with regard to novelty, inventive step or industrial applicability;
citations and explanations supporting such statement

1. Statement

| | | |
|-------------------------------|--------------------|-----|
| Novelty (N) | Claims <u>1-11</u> | YES |
| | Claims _____ | NO |
| Inventive step (IS) | Claims <u>1-11</u> | YES |
| | Claims _____ | NO |
| Industrial applicability (IA) | Claims <u>1-11</u> | YES |
| | Claims _____ | NO |

2. Citations and explanations:

The present invention relates to synergistic fungicides comprising a triazolopyrimidine of the formula (I) (see claim 1) and an anilide of the formula (II).

D1 generally describes compounds comprising (I), *inter alia* (I) as example, and the possibility of adding a further fungicide to such a general compound: (II) is not mentioned.

D2 describes synergistic fungicides comprising (II), but does not mention (I).

Obtaining a synergism could not have been expected because the respective mixing partners differ greatly from one another with regard to their structure. A person skilled in the art would have had no particular reason to prepare the claimed compositions.

The present application therefore satisfies the criteria in PCT Article 33(2)(3) because the subject matter of claims 1-11 is novel in relation to the prior art as defined in the Regulations (PCT Rule 64.1-64.3) and involves an inventive step (PCT Rule 65.1-65.2).

WRITTEN OPINION OF THE
INTERNATIONAL SEARCHING AUTHORITY

International application No.

PCT/EP2005/003007

Box No. V

Reasoned statement under Rule 43bis.1(a)(i) with regard to novelty, inventive step or industrial applicability;
citations and explanations supporting such statement

The present application satisfies the criterion in PCT
Article 33(4) because the subject matter of claims 1-11
is considered to be industrially applicable.